

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

Q. Allen
24961

FILE: B-210766.2

DATE: April 25, 1983

MATTER OF: M G L Construction, Inc.

DIGEST:

GAO will not review the Small Business Administration's compliance with its own internal guidelines for the Small Business Act's section 8(a) program absent a showing of possible fraud or bad faith on the part of Government officials.

M G L Construction, Inc. protests the Corps of Engineers' decision to award several contracts to the Small Business Administration (SBA) for subcontract awards pursuant to section 8(a) of the Small Business Act, ~~15 U.S.C.~~ § 637(a) (Supp. IV 1980). Section 8(a) authorizes the SBA to enter into contracts with any Government agency having procuring authority and to arrange for performance by letting subcontracts to socially and economically disadvantaged small business concerns. M G L alleges that the SBA did not prepare a report analyzing the impact on firms not in the 8(a) program of reserving these contracts for the program, as required in the SBA's Standard Operating Procedure for section 8(a) contracting.

We dismiss the protest.

Because of the broad discretion the Small Business Act affords the SBA and the contracting agencies in selecting efforts for 8(a) contracting, our review of actions under the program is essentially limited to determining whether procurement regulations have been followed and whether there has been fraud or bad faith on the part of Government officials. Wakon Redbird & Associates, B-205995, February 8, 1982, 82-1 CPD 111.

Moreover, the SBA's Standard Operating Procedure merely provides internal SBA policies and guidelines that complement the SBA regulations implementing the 8(a) program at 13 C.F.R. part 124 (1982). We have held that we will not review the SBA's compliance with those internal procedures absent a showing of possible fraud or bad faith. Jets Services, Inc., B-199721, March 11, 1981, 81-2 CPD 300.

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Thus, the failure to prepare an impact analysis does not in itself warrant our review of a decision to place a contract in the section 8(a) program. Since M G L does not suggest that there has been any fraud or bad faith here, the protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel